



CITY OF MORGAN HILL

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## **PLANNING COMMISSION MEETING MINUTES**

### **REGULAR MEETING**

**MAY 8, 2001**

**PRESENT:** Kennett, Lyle, McMahon, Mueller, Pinion, Ridner, Sullivan

**ABSENT:** None

**LATE:** None

**STAFF:** Planning Manager (PM) Rowe, Public Works Deputy Director (PWDD) Keaten, Senior Engineer (SE) Behzad, and Minutes Clerk Johnson.

### **REGULAR MEETING**

Chair Kennett called the meeting to order at 7:00 p.m.

### **DECLARATION OF POSTING OF AGENDA**

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

### **OPPORTUNITY FOR PUBLIC COMMENT**

Chair Kennett opened the public hearing.

Commissioner Pinion said that he wanted to take the opportunity in the public comment period to announce that his appointment will expire at the end of this month and he has decided not to seek reappointment. Chair Kennett thanked him for the statement; she indicated that she had reach a decision not to seek reappointment as well.

There being no others present who wished to address the Commission, the public hearing was closed.

### **MINUTES:**

**APRIL 24,  
2001**

**COMMISSIONERS MUELLER/McMAHON MOTIONED TO APPROVE THE  
APRIL 24, 2001 MINUTES WITH THE FOLLOWING AMENDMENT(S):**

Page 2 Old business item: The public hearing was continued, not closed.

Page 3: Commissioner Mueller noted that there was to be discontinuation of combining the fiscal

years; the allocations are made on a two-year basis and stand alone as such.

Page 5: 1<sup>st</sup> and 2<sup>nd</sup> paragraphs: Commissioner McMahon spoke to the point of positions held by the City and the Planning Commission. The first sentence of paragraph 2 was Commissioner McMahon's (not Commissioner Sullivan's) statement with particular emphasis on "rubber stamp".

Page 6: The motion directed staff to bring back a resolution, with findings, indicating the capital improvements as presented is inconsistent with the City's general plan.

**THE MOTION PASSED WITH KENNETT, LYLE, McMAHON, MUELLER, AND SULLIVAN VOTING YES; AND PINION AND RIDNER ABSTAINING.**

## **CONSENT:**

### **1. REVIEW OF DRAFT 5-YEAR (FY 01/2-05/06)**

The draft Five Year Capital Infrastructure Program (CIP) is the city's planning tool for major capital infrastructure construction including streets, parks, water, sewer, public buildings, and other activities. The Planning Commission reviews the CIP every year to provide input to the City Council and to make a finding of General Plan consistency. Staff was directed by the Commission to bring revised resolution for adoption at the May 8<sup>th</sup> meeting date.

**Note:** This matter was pulled from a consent to action item to provide opportunity for discussion and completion.

PWDD Keaten gave the staff report. He addressed the previous concerns of the Commission regarding the matter of consistency, noting that the CIP as presented is consistent with the current General Plan, which was adopted in 1996. Attention was called to the fact that this program deals only with public works projects, e.g., water, sewer, streets, etc.

Commissioners discussed with PWDD Keaten the differences in the language of parks and recreation facilities and parklands in the CIP. PWDD Keaten explained the methodology for computations regarding facilities, population and forecast.

Commissioner Mueller voiced his objections to the inclusion of an aquatic park and parking lots for facilities in the parks and parklands categories.

The public hearing was opened.

There being no persons who wished to speak to the issue, the public hearing was closed.

**COMMISSIONERS PINION/MUELLER MOTIONED THE ADOPTION OF RESOLUTION NO. 01-18 BY STRIKING THE LAST SENTENCE IN SECTION 1, AND SUBSTITUTING THIS LANGUAGE: THE CIP, HOWEVER, NEEDS TO PROVIDE ADDITIONAL CIRCULATION IMPROVEMENTS, PARTICULARLY AT THE NORTH END OF TOWN WHERE THE MORGAN HILL UNIFIED SCHOOL DISTRICT WILL BE CONSTRUCTING A NEW HIGH SCHOOL AND WHERE MAJOR EXPANSIONS (BUILD OUT) OF NEARBY BUSINESS PARKS**

**ARE CURRENTLY UNDERWAY; AND MODIFICATION OF SECTION C TO INCLUDE AN ADDITION: BASED ON THE PROPOSED GENERAL PLAN, THE CIP PROVIDES INSUFFICIENT IMPROVEMENTS IN MEETING THE CITY'S PARK AND OPEN SPACE REQUIREMENTS INCLUDED IN THE STATED GOAL OF ACQUIRING FIVE ACRES OF PARK LAND FOR EVERY 1000 RESIDENTS ADDED TO THE CITY'S POPULATION OVER THE FIVE YEAR PLANNING PERIOD.**

**THE MOTION PASSED WITH THE FOLLOWING VOTE: "AYE": KENNETT, McMAHON, MUELLER, AND SULLIVAN; "NO": LYLE; AND PINION AND RIDNER ABSTAINING.**

Commissioners continued discussion of their many concerns and the CIP:

- particularly noting that combining recreation with parks can be misleading;
- that the issue of ongoing maintenance costs is not addressed (it was remarked by PWDD Keaten that the operating budget was not being reviewed at this time);
- the need for consistency with the new General Plan;
- the need to address duplicative facilities, i.e., gyms at parks and schools

#### **OLD BUSINESS:**

**2. ZA-01-03: CITY OF M.H.-ZONING AMENDMENT** A request to amend Title 18 of the Morgan Hill Municipal Code, the Planning and Land Use Codes, to add new zoning definitions and text regarding the storage and parking of vehicles in residential yards and zoning districts. **TEXT**

PM Rowe reported that the City Attorney has scheduled a meeting with the resident/Attorney who raised concerns regarding several issues in the amendment for a time certain during the next week. Consequently, with no information to be discussed at this time, **COMMISSIONERS RIDNER/PINION MOTIONED TO TABLE THE ITEM UNTIL DATA IS RECEIVED. THE MOTION CARRIED BY UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT.**

#### **NEW BUSINESS:**

**3. ZA-01-02/  
ANX-01-01:  
CAMPOLI-COX**

A request to annex approximately 3.23 acres, Lands of Cox, north of Campoli Rd., east of Santa Teresa Blvd., and west of Old Monterey Rd., and prezone to R-1 (7000).

PM Rowe gave the staff report: The annexation and zoning amendment (pre-zoning) application includes four parcels of land approximately 3.23 acres in size. As a condition of the annexation approval, he said, the applicant will need to provide copies of all County building permit(s) and code enforcement record(s); be able to provide certification that no violations of the Uniform Housing Code are existing; and that all improvements have permit(s). These conditions are in place, PM Rowe said, because a number of violations now exist tied to the property. He explained the zoning as now exists and the proposed zoning, as well. PM Rowe also provided explanation regarding the surrounding properties, while emphasizing that to allow for the future

division of the parcel, a zoning designation of R1-7000 would be necessary.

The Commissioners asked questions of PM Rowe regarding the zoning of properties at the South boundary and if feathering was a logical position for the zoning proposed? PM Rowe responded that feathering could more easily result to the north; he also stated that this property (30 acres to the north) is being considered as a site for the new Catholic High School.

Further responding to questions, PM Rowe informed Commissioners of plans for streets on the property, indicating the need for connector routes to properties to the south and east which are now in the City.

Commissioner Mueller asked questions regarding the properties in relation Urban Growth Areas (UGA), to which PM Rowe responded, explaining the basis for inclusion into the UGAs.

Commissioner Ridner asked if this request is subject to LAFCO? [No, because of the UGA.]

Chair Kennett opened the public hearing.

Vince Burgos, 352 S. Eagle Nest, Danville, spoke in favor of the request. Commissioners Lyle and Muller indicated they though inclusion of the property to the west would be a very good plan. In responding, Mr. Burgos explained that although negotiations had been taking place with the property owners (to the west), those owners were not interested in making application for similar zoning/annexation at this time.

The public hearing was closed.

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 01-19 WHICH WAS SECONDED BY COMMISSIONER SULLIVAN AND PASSED BY UNANIMOUS VOTE OF THE MEMBERS OF THE PLANNING COMMISSION. THE RESOLUTION RECOMMENDS APPROVAL OF ZONING FROM COUNTY 1-SR TO R1-7000.**

**COMMISSIONERS MUELLER/SULLIVAN OFFERED RESOLUTION NO. 01-20 RECOMMENDING APPROVAL OF THE ANNEXATION OF APPROXIMATELY 3.23 ACRES OF TERRITORY LOCATED ON THE NORTH SIDE OF CAMPOLI DRIVE, BETWEEN MADRONE ROAD AND HALE AVENUE. THE RESOLUTION WAS PASSED BY UNANIMOUS VOTE OF THE MEMBERS PRESENT.**

Commissioner Mueller suggested direction to staff that should the Catholic Dioceses utilize the property to construct a High School, every effort should be made to bring the property west into the city as well.

**DUNNE-GREWAL** project has requested an extension of time for the building allotments awarded to the project for fiscal year 2000-2001.

In providing the staff report, PM Rowe called to the Residential Development Agreement, stating that on page 7, in item j, there needs to have language included which reflects that the calculations are from base year 1996. On page 8, item m, insertion of verbiage should read: equivalent to a traffic light.

Chair Kennett opened the public hearing.

There being no persons to address the request, the public hearing was closed.

Commissioner Lyle questioned if there is a need for adjustment to the time line on page 15 of the agreement. If such was necessary, he asked, what is reasonable for dates. Further, Commissioner Lyle said, if there is non-performance within the approved time line, what should the ramifications be?

Commissioner Ridner expressed frustrations (which other Commissioners echoed) that in trying to get allocations built ASAP, the Developers need to take the time lines very seriously. He further stated that in view of the number(s) of delinquencies, perhaps it is time to send a strong message to the development community that such lags are not acceptable nor excusable. Commissioner Ridner said he believes there is a real need to have the City say: it (approved housing allocations) needs to get done.

Commissioner Lyle commented that he thinks the time needed for micro projects may need to be revised to match market place allocations. Should the current system continue, he said, the micros should be ready to begin as soon allocation is given; otherwise the system needs revision.

PM Rowe said that while there is some overlap in dates as a natural part of the existing process, he recommended that Exhibit B dates be: III Final Map Submittal 7-1-01 and IV Building Permit Submittal 8-1-01 which provides concurrence with II.

**COMMISSIONERS McMAHON/PINION MOTIONED TO APPROVE RESOLUTION NO. 01-21 RECOMMENDING APPROVAL OF THE DEVELOPMENT AGREEMENT AND EXCEPTION TO LOSS OF BUILDING ALLOCATION. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: KENNETT, McMAHON, PINION, RIDNER AND SULLIVAN; NOES: LYLE, MUELLER. NONE ABSENT NOR ABSTAINING.**

During the discussion, Commissioners expressed concern that the micros have not been completed timely and made it clear they are not in favor of time line extensions; and that builders have perceived a wrong message, thereby defeating the purpose of Measure P. The Commissioners suggested that staff begin preparing a draft letter in which stern communication would be sent alerting developers they must exhibit good faith in beginning and continuing work on the allocations.

**5. EOT-01-04/  
(MP-00-03):  
MCLAUGHLIN-  
JONES:**

A request for an extension of time for building allotments awarded under the Micro Measure P competition for fiscal year 2000-2001.

PM Rowe gave the staff report, noting this project had been identified as delinquent in the February 2001 quarterly RDCS progress and at the April 24, 2001 hearing. Therefore, the Commissioners had requested the application be scheduled for review. PM Rowe said that on April 26, 2001 the applicant filed applications for subdivision and development agreement approval. A letter from the applicant has been received and presented to Commissioners, he said, in which there is a request for extension of time for the one building allotment granted for FY 2000-01. Explanation for the extension is that the project includes a duplex and a triplex unit and with only one allotment available for FY 2000-01, the applicant writes, it would be difficult to build half a unit and economically impractical not to build all five units at one time. PM Rowe said it appears the builder has joined forces with a developer who has a positive record with the city for project completion.

Chair Kennett opened the public hearing.

Scott Schilling, South Valley Developers, 16060 Caputo Dr., #160, addressed the Commission, providing a brief history of the development process while presenting a new proposed schedule for project completion. He said the owner had been working with the public works department and accomplished the installation of streets, water and sewer which have been stubbed to begin this phase of the project. Mr. Schilling indicated that the site and architect phases were ready to commence. He estimated the project homes could begin construction no later than February 15, 2002. He spoke positively of the development stating it provides redevelopment within the City, contributing new housing in the downtown area. He asked that a one-year extension be granted noting that a schedule discussed with the Planning Department personnel could be reasonably met.

Commissioner Sullivan asked if Mr. Schilling has signed an agreement with the owners which contains contingencies? Mr. Schilling responded no, but later changed this response to yes.

Commissioner McMahon requested review of the housing allotments which was provided and clarified.

Commissioner Mueller reminded that the law does not allow extensions due to developer inaction, which appears to be the case here.

Mr. Schilling said that with any small project there can be financing difficulty and this slows the process.

Jerry Jones, (no speaker card submitted) who identified himself as the owner of the property, said the lapse in development was not lack of performance, citing the installation of public works while noting that although he planned to do the project himself, it is proving very costly. Mr. Jones said it is not possible to build one-half of a duet house; he needs, he said, to build both halves at the same time.

Commissioner Sullivan asked Mr. Jones if he had talked with staff at the time of the delinquency notices. He denied ever receiving correspondence regarding delinquency. Mr. Jones further stated he didn't know the time frames for submitting materials and permit requests.

There being no others present who wished to address the Commission, the public hearing was closed.

Commissioner discussed the process for notification to successful applicants regarding time frames [it is clear in the packet provided at time of initial application and in a follow-up letter]; the methods for announcement to owners of the delinquencies; and methods of compliance. The need to reiterate information of the need to meet time lines, to tighten up the completion process.

Upon reviewing the proposed Resolution (No. 23) Commissioner Lyle suggested Section 3 be deleted. He also stated a belief that at the quarterly delinquency reports, property owners who have been awarded allotments be required to be present.

Commissioner McMahon noted that in the background material presented, she could find no mention of notification by the City of the delinquency. She also said that in her opinion the best and highest plan would be to have a firm deadline for submittal of the plan for development of the projects receiving allocations.

Making a statement that the Commissioners are not happy with the events, but believe forward progress on this project will be best for the City, **COMMISSIONERS MUELLER/PINION OFFERED RESOLUTION NO. 01-23 RECOMMENDING APPROVAL OF A SIX-MONTH EXCEPTION TO LOSS OF BUILDING ALLOCATION FOR MCLAUGHLIN-JONES. INCLUDED IN THE MOTION WERE FINDINGS REPLACING SECTION 3 THAT THE APPLICANT HAS MADE GOOD FAITH EFFORTS THROUGH THE PLACEMENT OF PUBLIC WORKS (ROADS, WATER, SEWER) PLACEMENT ON THE PROPERTY. THE RESOLUTION WAS ADOPTED BY THE FOLLOWING VOTE: YES: KENNETT, McMAHON, MUELLER, PINION, AND SULLIVAN. NO: LYLE AND RIDNER. ABSENT, ABSTAINING, NOT VOTING: NONE.**

At this time Chair Kennett turned the gavel over to Vice Chair Ridner and absented herself from the meeting..

**6. EOT-01-03/  
(MP-00-05): NINA  
LANE-SHAW**

A request for an extension of time for building allotments awarded under the Micro Measure P competition for fiscal year 2000-2001.

PM Rowe presented the staff report, which had been provided to all Commissioners in writing. He spoke specific of the dates of submittal(s) for meeting the requirements of obtaining the allotments given in the Measure P competition. PM Rowe further provided the background leading to this request: testing the property for arsenic (which proved negative) following the identification of the chemical element on adjacent property; lack of staff in the Planning

Department resultant in delays in responding to applications which were ~~decelerated~~ delayed this case due to questions of lot layout and set-backs; failure of the applicant to identify amenities as previously agreed.

Vice Chair Ridner opened the public hearing.

Bill McClintock, PO Box 1029, approached the Commissioners speaking in favor of the request. He made some general comments regarding the micros in Measure P, noting that batch processing resulted in office tie-ups, and suggesting a need for change. Mr. McClintock then spoke of the history of the property under discussion and the reasons for the extension requests. He stated that he was under the impression that all the issues had been dealt with and was dismayed that was not the case. Mr. McClintock asserted that the interpretations of definitions of terms used in the Measure P process were not made clear to developers and applicants. Mr. McClintock stated that micro projects need nearly as much time to get started as larger projects.

Commissioner Lyle responded to Mr. McClintock's concerns by stating that the subcommittee had been meeting to discuss the issues raised and would be making recommendations at the next meeting to the Planning Commission.

Vice Chair Ridner closed the public hearing

**COMMISSIONERS PINION/SULLIVAN MOTIONED ADOPTION OF RESOLUTION NO. 01-25 RECOMMENDING APPROVAL OF A SIX-MONTH EXCEPTION TO LOSS OF BUILDING ALLOCATION FOR APPLICATION OF NINALANE-SHAW. THE MOTION CARRIED BY UNANIMOUS VOTE OF THE COMMISSIONERS PRESENT, WITH KENNETT ABSENT.**

Chair Kennett returned and resumed the gavel.

**7. SD-01-02/  
DA-01-01: E.  
DUNNE-  
TROVARE**

A request for approval of a development agreement and a 14 lot subdivision to create the final phase of the Trovare project located on the south side of E. Dunne Ave., adjacent to the east side of the church located at 1790 E. Dunne Ave. The property is located in the R-1 7000/RPD zoning district.

PM Rowe presented the staff, noting information and modifications in the proposed Resolution 01-27 as follows: lots allocated under Measure P: 52; 54 dwellings; 2 replacement dwellings; 4 lots exempt under Measure E. In the development agreement, on page 8, item Lii: for clarification, use 20%. The entire development will consist of 58 dwellings. PM Rowe also reminded the Commissioners that, in accordance with City Council policy, all residential projects awarded building allotments through the Residential Development Control system must secure City Council approval of a Development Agreement. The project commitments for phase III of the project are included in this application for approval.

Chair Kennett opened the public hearing.

Wayne O'Connell, no address given, appeared to invite questions from the Commissioners. He indicated that he has been working closely with staff to ensure compliance with the



requirements.

Commissioner Mueller asked if it would be possible to have the Dunne St. improvements done at the same time as the other public works improvements for this project? It was explained that the Public Works Department has indicated the projects had to be completed separately.

Commissioner Lyle asked if there are five BMR units? [Yes]

**COMMISSIONERS RIDNER/MUELLER MOVED APPROVAL OF RESOLUTION NO. 01-27 WITH THE MODIFICATIONS EXPLAINED IN THE STAFF REPORT. THE MOTION PASSED UNANIMOUSLY.**

**COMMISSIONERS RIDNER/MUELLER MOVED APPROVAL OF RESOLUTION NO. 01-28 WITH THE MODIFICATIONS EXPLAINED IN THE STAFF REPORT. THE MOTION PASSED UNANIMOUSLY.**

**8. UPA-98-07:  
MONTEREY-  
IRISH  
CONSTRUCTION**

A request for approval to amend an existing conditional use permit to demolish an existing 2,000-sf office use within an 18,390-sf construction office and staging yard, and replace with a 3,976-sf office space. The subject site is located at the southeast corner of Monterey Road and Burnett Avenue.

PM Rowe indicated that the applicant is in the process of responding to questions regarding landscaping for the project as well as issues of cleanup on the site; consequently, a request for continuance has been received.

**COMMISSIONERS McMAHON/MUELLER MOTIONED TO CONTINUE THIS MATTER UNTIL THE MAY 22, 2001 MEETING OF THE PLANNING COMMISSION. THE MOTION WAS PASSED BY THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT.**

**ANNOUNCEMENTS:**

An information item provided to Commissioners at this meeting indicates one of the delinquent projects (DeWitt/shepherd) which has three allocations will not proceed. A resolution diverting those allocations to other appropriate candidates will be acted upon May 22.

The City Council has extended to May 25 the deadline for applications for appointment to the Architectural Review Board. Still needed are applicants in the categories of Contractor and Landscape Architect.

An ELBA has been received for the Madrone project based on its being delayed due to other government permits/requirements related to Fisher Creek.

An appeal (based on policy issues) to the City Council by the developers of the Coyote Creek Estates is being referred back to the Planning Commission for resolutions. It was noted that there is a need to get these projects completed. There was a consensus of the Members present that there may be a question of fairness if rules are changed at different times following

application for project acceptance.

Commissioner McMahon requested information on the status of receipt of census figures, reminding that the Commissioners had previously discussed the possibility of increased allocations as a result of the census figures. PM Rowe responded that the figures received were higher than projected, so there would be no addition of allocations. He also indicated that the census figures and numbers received from the Department of Finance are differing. PM Rowe said he anticipated the issue(s) would be on the May 22 agenda. Commissioner Mueller asserts there is a need to study the figures projected for 2010.

Commissioner Mueller was requested to set for an upcoming agenda the matter of the wording on the historical water tower. Commissioner Mueller indicated there were conflicting data regarding the word and he was trying diligently to resolve the dispute. He assured the commissioners that, as soon as he possessed the information needed, he would present it in open session.

Commissioner McMahon said she was concerned regarding notice to applicants with delinquent projects. She asked that in explaining the process to the Planning Commission, it be made very clear who sent the notices, when, and by what method.

Commissioner Pinion shared her concern, stating his feeling that all such notices should be by certified mail, receipt requested. He further voiced an opinion that perhaps it is time to have the Measure P competition every other year.

PM Rowe announced a workshop on the 15<sup>th</sup> of May at 6:30 to detail the recommendations of the Measure P subcommittee.

**ADJOURNMENT:** There being no further business, Chair Kennett adjourned the meeting at 9:35 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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JUDI H. JOHNSON

Minutes Clerk